

Amendment No. 1 to SB0509

Beavers  
Signature of Sponsor

AMEND Senate Bill No. 509\*

House Bill No. 570

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-3-617, is amended by deleting subsection (a) and substituting instead the following:

(a)

(1) Notwithstanding any other law to the contrary, no domestic abuse victim, stalking victim or sexual assault victim shall be required to bear the costs, including any court costs, filing fees, litigation taxes or any other costs associated with the filing, issuance, registration, service, dismissal or nonsuit, appeal or enforcement of an ex parte order of protection, order of protection, or a petition for either such order, whether issued inside or outside the state. If the court, after the hearing on the petition, issues or extends an order of protection, all court costs, filing fees, litigation taxes and attorney fees shall be assessed against the respondent.

(2) If the court does not issue or extend an order of protection, the court may assess all court costs, filling fees, litigation taxes and attorney fees against the petitioner if the court conducts a hearing separate from the hearing on the petition. If the petitioner is present at the first hearing, the second hearing on costs may be held immediately following the first hearing. If the petitioner is not present, the petitioner shall be summoned and the second hearing conducted at a later date to be determined by court. In order to assess costs against the petitioner, the court must find by a preponderance of evidence that:

(A) The petitioner is not a domestic abuse victim, stalking victim or sexual assault victim;

(B) The refusal to issue or extend an order is based solely on the finding that the petitioner is not a domestic abuse victim, stalking victim or sexual assault victim and not because the petitioner requested the petition be dismissed, failed to attend the hearing or incorrectly or inartfully filled out the petition; and

(C) The petition was filed frivolously.

(3) For purposes of this subsection (a), “filed frivolously” means:

(A) The facts contained in the petition are clearly false; or

(B) The petitioner filed the petition in bad faith; and

(C) The petition was filed for the sole purpose of harassing the respondent. However, the fact that the respondent is inconvenienced, annoyed, disturbed or upset by the filing of the petition is not, of itself, sufficient to constitute harassment.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.